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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application	09/671,089	
	Filing Date	September 27, 2000	
	First Named	Daniel O'Mahony et al.	
	Group Art Unit	1653	
	Examiner Name	S. K. Snedden	
Total Number of Pages in This Submission	12	Attorney Docket Number	P26,479-A USA

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Marilou E. Watson
Signature	<i>Marilou E. Watson</i>
Date	December 30, 2002

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December 30, 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re/ application of Daniel O'Mahony
and Imelda Lambkin

Application No. 09/671,089
Filed September 27, 2000

Examiner S.K. Snedden

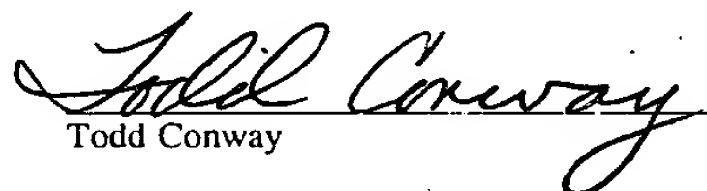
Art Unit 1653
Confirmation No. 6019

MEMBRANE TRANSLOCATING PEPTIDE DRUG DELIVERY SYSTEM

(Atty. Docket No. P26,479-A USA)

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Todd Conway

Commissioner for Patents
Washington, D.C. 20231

Reply to Examiner's Requirement for Restriction
Election, As Set Forth in the Action Dated September 30, 2002

Sir:

In response to the Examiner's Requirement for Restriction, as set forth in the Action dated September 30, 2002, applicant elects hereby to prosecute the claims of Group I, that is, Claims 1 to 6. Applicants confirm their right to file a divisional application which includes the non-elected claims (Claims 7 to 11). Although the Examiner refers to an "Invention IV" in the detailed action, Applicants respectfully advise that no claims of the present invention have been assigned to an "Invention IV".

Applicants traverse respectfully the Restriction Requirement.

The Examiner's attention is directed to MPEP §803, which states (emphasis added):

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP §§ 802.01, §§ 806.04, §§ 808.01) or distinct as claimed (see MPEP §§ 806.05 - §§ 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is required (see MPEP §§ 803.02, §§ 806.04(a) - §§ 806.04(i), §§ 808.01(a), and §§ 808.02).

Examiners must provide reasons and/or examples to support conclusions, but need not cite documents to support the restriction requirement in most cases.

Applicants respectfully submit that the Examiner's Action does not explain why it would be "a serious burden" for the Examiner to perform a search and examination of the application in its entirety. Accordingly, the Examiner's Requirement does not satisfy an essential criteria for a proper Requirement for Restriction, as set forth in the MPEP.

Furthermore, applicants respectfully submit that it would not be a serious burden for the Examiner to search and examine the application in its entirety. All of the claims of the present application share a major common element. This common element is a membrane translocating peptide (MTLP). Since this common element is shared by the claims of Groups

I, II, and III, it would not be a serious burden for the Examiner to search and examine the claims of Groups I, II, and III.

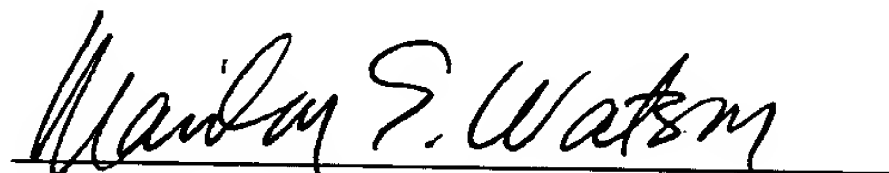
In view of the above, applicants request respectfully that the Examiner withdraw the Restriction Requirement.

The Office Action includes also an additional requirement of election of peptides to which the claims must be restricted.

Applicants elect hereby SEQ ID NOS: 2 to 13, 16, and 23 to 24. These peptides share the function of comprising membrane translocating amino acid sequences. From a structural perspective, as is readily apparent from Table 1 (pages 15 to 16 of the present application), these peptides also share high levels of identity with each other.

A favorable action on the merits is requested respectfully. The Commissioner is authorized hereby to charge any additional fees or credit any overpayment associated with this Reply to Deposit Account No. 19-5425. A duplicate of this Reply is enclosed. A Petition for an extension of time to respond to the Action is enclosed also.

Respectfully submitted,



Marilou E. Watson

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